

### REMARKS/ARGUMENT

Claims 10-12, 15, 18 and 24-26 are canceled. Claim 9 is rewritten to include the features of Claim 11.

#### Examiner's Telephone Interview of June 2, 2011 and June 3, 2011

The undersigned wishes to thank Examiner Capozzi for the courtesies extended during the June 2 and 3 telephone interview. The Examiner contacted the undersigned to indicate that a new patent reference, US7083642 was prior art to the application under 35 USC § 102(e). The Examiner believed that Claims 9 and 24 were anticipated by this reference.

Additionally, the Examiner indicated the withdrawn claims (due to restriction imposed) could not be re-entered under MPEP § 1214.05 because therein it indicates that when claims are "withdrawn" (i.e., claims subject to a restriction and not argued separately) they are deemed canceled if the Board decision reserves the Examiner. Applicants traverse. Section 1214.05 is referring to claims that were not argued separately, or were argued separately then withdrawn before the board reaches decision. The withdrawn claims 2 and 3 were not subject to a rejection, because they were restricted, i.e., there was no examination done. **Therefore, Section 1214.05 does not prohibit Claims 2 and 3 from being re-entered. Applicants kindly ask that the Office re-consider its reading of Section 1214.05 and allow Claims 2 and 3.**

#### Withdrawn Claims 2 and 3

Claims 2 and 3 are subject to a species-type restriction requirement. As these claims now depend from allowable parent claims, withdrawal of the restriction requirement and allowance of Claims 2 and 3.


Conclusion

In light of the foregoing claim amendments and remarks, this application is considered to be in condition for allowance, and early passage of this case to issue is respectfully requested. If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 07-1850.

Respectfully submitted,

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Squire, Sanders & Dempsey L.L.P.  
275 Battery Street  
Suite 2600  
San Francisco, CA 94111  
Facsimile (415) 393-9887  
Telephone (415) 954-0314

  
James L. Reed  
Attorney for Applicant  
Reg. No. 43,877